

VZCZCXRO2431
PP RUEHCHI RUEHDT RUEHHM
DE RUEHJA #6017/01 1320848
ZNY CCCCC ZZH
P 120848Z MAY 06
FM AMEMBASSY JAKARTA
TO RUEHC/SECSTATE WASHDC PRIORITY 4111
INFO RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS PRIORITY
RUEHJA/ISLAMIC CONFERENCE COLLECTIVE PRIORITY
RUEHBY/AMEMBASSY CANBERRA PRIORITY 9433
RUEHWL/AMEMBASSY WELLINGTON PRIORITY 0807
RHEHNSC/NSC WASHDC PRIORITY
RUEKJCS/SECDEF WASHDC PRIORITY
RHHMUNA/USCINCPAC HONOLULU HI PRIORITY

C O N F I D E N T I A L SECTION 01 OF 04 JAKARTA 006017

SIPDIS

SIPDIS

E.O. 12958: DECL: 05/13/2014
TAGS: [KISL](#) [PGOV](#) [KJUS](#) [PHUM](#) [ID](#)
SUBJECT: THE DOWNSIDE OF DECENTRALIZATION: LOCALIZED
SHARIAH LAW IMPLEMENTATION

REF: A. 05 JAKARTA 3607 (SHARIAH: TODAY'S BROMIDE
[B](#). TOMORROW'S REALITY?)
[C](#). 04 JAKARTA 7007 (SHARIAH IN SOUTH SULAWESI)
[D](#). JAKARTA 3159 (ANTI-PORNOGRAPHY BILL)

Classified By: Political Officer John Rath. Reason: 1.4 (D).

[1](#). (C) Summary: Proponents of Islamic Shariah law enjoy growing success exploiting Indonesia's political decentralization to implement "Islamic morality" principles on a local basis. Promulgated by local governments through legislation or executive decrees, Shariah measures or more deceptively-packaged "anti-immorality" laws have sprung into force in at least 20 of Indonesia's 455 regencies and municipalities in conservative areas of West Sumatra, West Java, and South Sulawesi and the trend has spread to Jakarta suburbs. Although many of the laws clearly violate the GOI Regional Autonomy Law's ban on local laws relating to religion and may discriminate in practice against non-Muslims, GOI Ministry of Home Affairs officials told us the Ministry feels reluctant to exercise its statutory authority by invalidating such laws. Opponents must resort to Indonesia's corrupt and inefficient legal system to challenge the laws. Although the Yudhoyono administration has not stated its views on localized Islamic morality laws, its support for pending national anti-pornography legislation indicates at least tacit approval. In light of mainstream public concern over perceived growing "immorality," we expect the trend of localized morality legislation to continue. We also expect Islamist and other politicians to continue to use "Islamic morality" as a socially-divisive wedge issue, particularly in the run-up to 2009 national elections. End Summary.

Front Door Locked, Slip In Through the Side Window

[2](#). (SBU) Debate over the applicability of Islamic Shariah law predates Indonesia's 1945 independence, and rejection of Shariah law by the drafters of Indonesia's constitution proved one of the motivating factors behind the armed Darul Islam insurgency crushed by military force in the 1950s. A highly-motivated element of Shariah proponents - a collection of conservative but mainstream Muslims, militants such as Abu Bakar Ba'asyir, and political demagogues of various stripes - have tried without success, most recently in 2002, to amend the constitution to make Shariah the law of the land. With the front door to national Shariah implementation apparently closed for the foreseeable future, Shariah proponents have seized on implementation at the regency and municipality level as an effective means to achieve their aim of codifying and enforcing Islamic morality as they define it (Ref A). We

note that Aceh has adopted elements of Shariah law, but the circumstances surrounding Aceh implementation appear unique and shed little light on the national situation.

13. (SBU) Over the past several years, Shariah proponents, working through allied local legislatures and mayors (not all affiliated with Islam-based political parties), have exploited the GOI's Regional Autonomy Law, the hallmark of Indonesian political decentralization, to enact two sorts of laws and decrees. The first makes direct reference to Islam or Islamic symbols, and in some cases refer to Shariah law or the "law of God." Such laws or decrees have gone into force in at least 12 regencies and municipalities, most located in the traditionally conservative "Koran Bet" of West Sumatra, West Java, and South Sulawesi. The 1950s-era Darul Islam armed insurgency centered in these three regions, and the descendants of some Darul Islam fighters, such as the son of deceased Darul Islam leader Kahar Muzakkar, now spearhead local Shariah implementation efforts.

14. (SBU) As an example of this sort of law, the local legislature (DPR-D) in Bulukumba, South Sulawesi enacted legislation that compels Muslim women to wear head covers, bans public sale of alcohol, requires Muslim high school students and marriage license applicants to demonstrate minimal ability to read (but not necessarily comprehend) Koranic passages in the Arabic script, and provides for a governmental scheme to collect the ritual Muslim tithe (zakat). A subsequent decree by the regency government requires all local government signs written in the Indonesian language to use both Western and transliterated Arabic scripts (Ref B). Similarly, the municipality of Padang, West Sumatra has enacted by mayoral decree regulations that compel

JAKARTA 00006017 002 OF 004

female Muslim public school students to wear head covers and require minimum Koran-reading competence of high school students and marriage license applicants. Human rights groups and non-Muslims in Padang and elsewhere have complained that in practice non-Muslims - particularly non-Muslim female students - are coerced into compliance with the regulations through overt or more subtle peer pressure.

15. (SBU) The second sort of law seeks to impose and enforce "Islamic values" in the garb of "anti-immorality" regulations. While Muslim groups and Islam-based political parties usually lead efforts to enact this sort of legislation, the underlying premise that Indonesia suffers from an ongoing "morality crisis" carries fairly wide mainstream appeal in many parts of Indonesia, particularly in Jakarta and other large cities. On a national level, the pending anti-pornography bill (Ref C) provides a prime example of this sort of legislation. At a local level, most such legislation usually aims at prohibiting prostitution and the public sale of alcohol. The legislative council of Tangerang Municipality, an area that comprises working-class suburbs and industrial areas west of Jakarta, has enacted one of the more controversial "anti-immorality" (anti-maksiat) laws. Among other provisions, the law states that "persons whose stance or behavior is suspicious to the point that they are considered to be engaged in acts of prostitution" are subject to arrest and are banned from streets, public places, eating and entertainment establishments, and all types of rented accommodation. The law also bans public kissing and the sale of alcohol everywhere but in star-rated hotels. Tangerang's hard-charging mayor, Wahidin Halim, is a brother of GOI Foreign Minister Hassan Wirajuda.

16. (SBU) Overzealous enforcement of this vague and subjective provision by Tangerang police and "citizen volunteers," mostly young Muslim activists affiliated with hard-line Islamic vigilante groups, has led to the arrest and at least temporary detention of some women - including married housewives, schoolteachers, and pregnant women - who claimed that their sole offense was waiting on the side of the road for public transportation, a common practice throughout

Indonesia. Labor union officials have complained that the law has a disproportionately negative effect on female workers who require public transportation to and from night shift jobs at Tangerang's numerous factories. Supporters and opponents of the law have staged multiple public demonstrations to voice their feelings and have clashed in recent weeks. Meanwhile, the local media reports that prostitution remains rampant in the municipality: in a press interview, a prostitute reportedly stated that she has adapted to Tangerang's morality craze by donning a kaftan and Islamic headscarf as she plies her trade, even claiming with a laugh that the novelty of Islamic dress allows her to charge customers more for her services.

17. (SBU) Following the Tangerang example, the legislative councils of Depok, a university town on Jakarta's southern border, and the adjacent Bogor Regency are reportedly in the process of adopting similar morality legislation that would ban prostitution, the public sale of alcoholic beverages, homosexual conduct, and extramarital sexual activity. As evidence of the "cut-and-paste" mode of legislative drafting that is common in local Indonesian governance, local journalists noted wryly that Depok's draft bill is identical to the Tangerang law, even containing the same grammatical and syntax errors. While Indonesia's two gargantuan mass Islamic groups, Nahdlatul Ulama and Muhammadiyah, affirmed in March their long-standing opposition to national Shariah implementation, leaders from both groups have been supportive of local "anti-immorality" legislation and local group branches have in some cases led efforts to enact such laws.

GOI Administrative Review - A Hollow Formality

18. (SBU) The GOI's Regional Autonomy Law, the statutory basis by which local governments promulgate local laws and decrees under Indonesia's grand experiment in political decentralization, expressly forbids local governments from enacting laws that deal with religion (as well as foreign policy, national defense and security, the national budget, and the judicial system). The Regional Autonomy Law also provides that the GOI Ministry of Home Affairs will review within a set period all local laws for conformity to national

JAKARTA 00006017 003 OF 004

laws and the Indonesian constitution. The Regional Autonomy Law further grants enforcement authority to the Ministry to declare invalid a non-conforming law and to send it back to the local promulgator for correction.

19. (SBU) While the GOI review process sounds smooth and efficient in theory, practical implementation is something quite different. Janirrudin, head of the Ministry's Legal Directorate with review responsibility, told us that the Ministry grants great deference in review to local governments because they are better situated than the Ministry to "understand the mentality and sociological conditions" of their communities. He told us that his office had not struck down any of the overt Shariah-based laws - much less the more cleverly-packaged "anti-immorality" laws - even though they clearly violate the Regional Autonomy Law's prohibition against religious legislation. He stated that Ministry approval was predicated on its understanding that the laws will be applied only to Muslims. He also explained that pro-Shariah demonstrators had previously visited the Ministry to express their support for morality legislation, thus implying that the Ministry was sufficiently intimidated to grant rubber-stamp approval for all such laws. As an example, he cited a demonstration several months ago by three busloads of young Muslim activists from Tangerang who arrived at the Ministry to agitate for passage of the Tangerang anti-prostitution law. Pointing nervously at the Ministry parking lot and stating that he did not want a return visit, Janurridin said the Ministry approved the Tangerang bill and returned it with only a non-binding "request" that the mayor

"clarify" to the public his enforcement plan.

GOI Judicial Review - Uncertain Prospects for Invalidation

¶10. (SBU) Indonesian lawyers tell us that Indonesia has no legal mechanism whereby the Supreme Court or Constitutional Court can declare void on legal principle local Shariah or "morality" laws collectively. Rather, each local law must be challenged separately and on its own merits, an expensive and time-consuming process that offers uncertain prospects for success. A group of legal NGOs has already filed suit in the Indonesian Supreme Court to challenge Tangerang's anti-prostitution legislation on constitutional grounds. Constitutional Court Chief Justice Jimly Asshiddiqie opined to a media interviewer that local Shariah laws such as compulsory Islamic dress violate both the Regional Autonomy Law and the Indonesian Constitution and are thus subject to legal challenge.

Comment and Future Direction

¶11. (C) It is important to understand that shrieking, wild-eyed, prayer-cap wearing Muslim militants and their demagogic religious and political leaders are not the only Indonesians who perceive growing immorality throughout their society: the issue has resonance among the silent mainstream majority, and GOI President Susilo Bambang Yudhoyono has spoken out on several occasions to criticize perceived lewd television and music. Recent opinion polling shows, however, that Indonesian Muslims favor Shariah law in principle far more than in practice: while 71 percent of respondents voiced support for the bald proposition that Shariah law should be implemented in Indonesia, smaller but still sizable minorities favored such practices as stoning of adulterers and amputation as criminal punishment. For this reason, we do not expect to see in the near- or medium-term national Shariah implementation or local laws that provide for such measures as amputation of criminals or stoning. We do expect, however, that the trend of measures such as compulsory wearing of head-scarves and required Koran-reading ability will continue and probably increase in Muslim-majority areas, particularly given the propensity of local legislatures to copy verbatim the laws of other localities. The reluctance of the GOI Home Affairs Ministry to exercise its statutory authority to invalidate such laws shows the sensitivity of this issue and a general reluctance to declare illegal something that, as Shariah proponents argue, is "part of the religion," though a stronger Home Minister Affairs Minister in the future might prove more willing to exercise such authority.

¶12. (C) We also think that "anti-immorality" laws such as the Tangerang law will continue to be adopted by local

JAKARTA 00006017 004 OF 004

governments, and that such measures stand a better chance of withstanding judicial scrutiny than overtly Shariah-based laws (which themselves may well pass judicial muster), though we note that opposition to the national anti-pornography bills shows the possibility of mainstream backlash if laws are deemed excessive. Our ability to influence the direction of local legislation and decrees is extremely limited, particularly given that our support over the past decade for Indonesian political decentralization has helped to provide the very autonomy that local governments are now exercising by enacting such laws. Looking to the medium-term and beyond, we expect that the larger "morality" or "Islamic values" question - a catch-all concept that covers everything from pornography to corruption by public officials - will grow in importance as both a social and political issue, particularly as political parties begin to search for potentially winning platforms in advance of 2009 national elections.

PASCOE